



July 20, 2012

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mary Gates, President & Facility Operator
Michael Cole, Facility Contact
Coast Auto Supplies and Dismantling, Inc.
112 Lee Road
Watsonville, CA 95076

Chris Favre, Agent for Service of Process and Facility Contact
Coast Auto Supplies and Dismantling, Inc.
40 Trembley Lane
Watsonville, CA 95076

**Re: Notice of Violations and Intent to File Suit Under the Federal Water
Pollution Control Act**

Dear Ms. Gates, Mr. Cole and Mr. Favre:

I am writing on behalf of the California Sportfishing Protection Alliance ("CSPA") in regard to violations of the Clean Water Act ("the Act") occurring at the Coast Auto Supplies and Dismantling, Inc. ("Coast Auto") facility, located at 112 Lee Road in Watsonville, California ("the Facility"). The WDID identification number for the Facility is 344I004786. CSPA is a non-profit public benefit corporation dedicated to the preservation, protection and defense of the environment, wildlife and natural resources of the Watsonville Slough, Pajaro River and other California waters. This letter is being sent to you as the responsible owner, officer, or operator of the Facility. Unless otherwise noted, Coast Auto Supplies and Dismantling, Inc., Mary Gates, Michael Cole and Chris Favre shall hereinafter be collectively referred to as Coast Auto.

This letter addresses Coast Auto's unlawful discharges of pollutants from the Facility to the City of Watsonville's storm water drainage system, which conveys the storm water into the Watsonville Slough. The storm water discharged from the Facility

then travels into the Pajaro River Estuary and then the Pacific Ocean. This letter addresses the ongoing violations of the substantive and procedural requirements of the Clean Water Act and National Pollutant Discharge Elimination System ("NPDES") General Permit No. CAS000001, State Water Resources Control Board Water Quality Order No. 91-13-DWQ, as amended by Order No. 97-03-DWQ ("General Permit" or "General Industrial Storm Water Permit").

Section 505(b) of the Clean Water Act provides that sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act (33 U.S.C. § 1365(a)), a citizen must give notice of intent to file suit. Notice must be given to the alleged violator, the U.S. Environmental Protection Agency ("the EPA"), and the State in which the violations occur.

As required by the Clean Water Act, this Notice of Violation and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Facility. Consequently, Coast Auto Supplies and Dismantling, Inc., Mary Gates, Michael Cole and Chris Favre are hereby placed on formal notice by CSPA that, after the expiration of sixty (60) days from the date of this Notice of Violation and Intent to File Suit, CSPA intends to file suit in federal court against Coast Auto Supplies and Dismantling, Inc., Mary Gates, Michael Cole and Chris Favre under Section 505(a) of the Clean Water Act (33 U.S.C. § 1365(a)), for violations of the Clean Water Act and the General Permit. These violations are described more fully below.

I. Background.

Coast Auto owns and operates an auto scrap metal recycling facility located in Watsonville, California. The Facility falls under Standard Industrial Classification ("SIC") Code 5093 ("Scrap Recycling Facilities") and 5015 ("Automobile Salvage"). The Facility is primarily used to receive, store, handle, recycle and transport scrap metals. Other activities at the Facility include the use and storage of heavy machinery and motorized vehicles, including trucks used to haul materials to, from and within the Facility.

Coast Auto collects and discharges storm water from its approximately 3-acre Facility through at least one discharge point into the City of Watsonville's storm water drainage system. By that system, Coast Auto's storm water drains into the Watsonville Slough, then the Pajaro River Estuary, and finally into the Pacific Ocean. The Watsonville Slough and Pajaro River Estuary and its tributaries are waters of the United States within the meaning of the Clean Water Act.

The Central Coast Regional Water Quality Control Board ("Regional Board") has established water quality standards for the Watsonville Slough and Pajaro River Estuary in the "Water Quality Control Plan for the Central Coast Basin" ("Basin Plan"). The Basin Plan requires "[a]ll waters shall be maintained free of toxic substances in concentrations which are toxic to, or which produce detrimental physiological responses

in, human, plant, animal, or aquatic life.” Basin Plan at III-4. The Basin Plan also requires “[t]he pH value shall neither be depressed below 6.5 nor raised above 8.3.” *Id.* at III-5. Further, it prohibits the discharges of oil and grease, stating that “[w]aters shall not contain oils, greases, waxes, or other similar materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses.” *Id.* at III-3.

The Basin Plan provides maximum contaminant levels (“MCLs”) for organic concentrations and inorganic and fluoride concentrations, not to be exceeded in domestic or municipal supply. *Id.* at III-6 - III-7. It requires that water designated for use as domestic or municipal supply shall not exceed the following maximum contaminant levels: aluminum – 1.0 mg/L; arsenic - 0.05 mg/L; lead - 0.05 mg/L; and mercury - 0.002 mg/L. *Id.* at III-7. The EPA has also issued recommended water quality criterion MCLs, or Treatment Techniques, for mercury - 0.002 mg/L; lead – 0.015 mg/L; chromium – 0.1 mg/L; and, copper – 1.3 mg/L. The EPA also issued a recommended water quality criteria for aluminum for freshwater aquatic life protection of 0.087 mg/L. In addition, the EPA has established a secondary MCL, consumer acceptance limit for aluminum - 0.05 mg/L to 0.2 mg/L and zinc - 5.0 mg/L. See <http://www.epa.gov/safewater/mcl.html>. Finally, the California Department of Health Services has established the following MCL, consumer acceptance levels: aluminum – 1 mg/L (primary) and 0.2 mg/L (secondary); chromium – 0.5 mg/L (primary); copper – 1.0 mg/L (secondary); iron – 0.3 mg/L; and zinc – 5.0 mg/L. See California Code of Regulations, title 22, §§ 64431, 64449.

The California Toxics Rule (“CTR”), issued by the EPA in 2000, establishes numeric receiving water limits for certain toxic pollutants in California surface waters. 40 CFR § 131.38. The CTR establishes the following numeric limits for freshwater surface waters: arsenic – 0.34 mg/L (maximum concentration) and 0.150 mg/L (continuous concentration); chromium (III) – 0.550 mg/L (maximum concentration) and 0.180 mg/L (continuous concentration); copper – 0.013 mg/L (maximum concentration) and 0.009 mg/L (continuous concentration); lead – 0.065 mg/L (maximum concentration) and 0.0025 mg/L (continuous concentration).

The Regional Board has identified waters of the Central Coast as failing to meet water quality standards for pollutant/stressors such as unknown toxicity, numerous pesticides, and mercury. See www.swrcb.ca.gov/water_issues/programs/tmdl/docs/-2002reg3303dlist.pdf. It identified that the Watsonville Slough fails to meet water quality standards due to the pollutant/stressors low dissolved oxygen, nutrients, PCBs, pH, sedimentation, sodium, and turbidity. It identified that the Pajaro River fails to meet water quality standards due to the pollutant/stressors chlordane, chloride, chlorpyrifos, DDD, Dieldrin, E. coli, low dissolved oxygen, nutrients, and sedimentation/siltation. Discharges of listed pollutants into an impaired surface water may be deemed a “contribution” to the exceedance of CTR, a water quality standard, and may indicate a failure on the part of a discharger to implement adequate storm water pollution control measures. See *Waterkeepers Northern Cal. v. Ag Indus. Mfg., Inc.*, 375 F.3d 913, 918

(9th Cir. 2004); *see also Waterkeepers Northern Cal. v. Ag Indus. Mfg., Inc.*, 2005 WL 2001037 at *3, 5 (E.D. Cal., Aug. 19, 2005) (finding that a discharger covered by the General Industrial Storm Water Permit was “subject to effluent limitation as to certain pollutants, including zinc, lead, copper, aluminum and lead” under the CTR).

The General Permit incorporates benchmark levels established by EPA as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite best available technology economically achievable (“BAT”) and best conventional pollutant control technology (“BCT”). The following benchmarks have been established for pollutants discharged by Coast Auto: copper – 0.0636 mg/L; pH – 6.0 – 9.0 s.u.; oil & grease – 15 mg/L; lead – 0.0816 mg/L; total suspended solids – 100.0 mg/L; and, zinc – 0.117 mg/L. The State Water Quality Control Board has also proposed adding a benchmark level for specific conductance - 200 µmhos/cm and total organic carbon – 110 mg/L. Additional EPA benchmark levels have been established for other parameters that CSPA believes are being discharged from the Facility, including but not limited to, aluminum – 0.75 mg/L; arsenic – 0.16854 mg/L; cyanide – 0.0636 mg/L; chemical oxygen demand – 120 mg/L; iron – 1.0 mg/L; magnesium – 0.0636 mg/L; manganese – 1.0 mg/L; mercury – 0.0024 mg/L; and, silver – 0.0318 mg/L.

II. Coast Auto Is Violating the Act by Discharging Pollutants From the Facility to Waters of the United States.

Under the Act, it is unlawful to discharge pollutants from a “point source” to navigable waters without obtaining and complying with a permit governing the quantity and quality of discharges. *Trustees for Alaska v. EPA*, 749 F.2d 549, 553 (9th Cir. 1984). Section 301(a) of the Clean Water Act prohibits “the discharge of any pollutants by any person . . .” except as in compliance with, among other sections of the Act, Section 402, the NPDES permitting requirements. 33 U.S.C. § 1311(a). The duty to apply for a permit extends to “[a]ny person who discharges or proposes to discharge pollutants. . . .” 40 C.F.R. § 122.30(a).

The term “discharge of pollutants” means “any addition of any pollutant to navigable waters from any point source.” 33 U.S.C. § 1362(12). Pollutants are defined to include, among other examples, a variety of metals, chemical wastes, biological materials, heat, rock, and sand discharged into water. 33 U.S.C. § 1362(6). A point source is defined as “any discernable, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, [or] conduit . . . from which pollutants are or may be discharged.” 33 U.S.C. § 1362(14). An industrial facility that discharges pollutants into a navigable water is subject to regulation as a “point source” under the Clean Water Act. *Comm. to Save Mokelumne River v. East Bay Mun. Util. Dist.*, 13 F.3d 305, 308 (9th Cir. 1993). “Navigable waters” means “the waters of the United States.” 33 U.S.C. § 1362(7). Navigable waters under the Act include man-made waterbodies and any tributaries or waters adjacent to other waters of the United States. *See Headwaters, Inc. v Talent Irrigation Dist.*, 243 F.3d 526, 533 (9th Cir. 2001).

The Pacific Ocean, Watsonville Slough, Pajaro River Estuary, and Pajaro River and its tributaries are waters of the United States. Accordingly, Coast Auto's discharges of storm water containing pollutants from the Facility are discharges to waters of the United States.

CSPA is informed and believes, and thereupon alleges, that Coast Auto has discharged and is discharging pollutants from the Facility to waters of the United States every day that there has been or will be any measurable flow of water from the Facility since July 20, 2007. Each discharge on each separate day is a separate violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a). These unlawful discharges are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Coast Auto is subject to penalties for violations of the Act since July 20, 2007.

III. Pollutant Discharges in Violation of the NPDES Permit.

Coast Auto has violated and continues to violate the terms and conditions of the General Permit. Section 402(p) of the Act prohibits the discharge of storm water associated with industrial activities, except as permitted under an NPDES permit such as the General Permit. 33 U.S.C. § 1342. The General Permit prohibits any discharges of storm water associated with industrial activities that have not been subjected to BAT or BCT. Effluent Limitation B(3) of the General Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures. General Permit, Section A(8). Conventional pollutants are TSS, Oil & Grease ("O&G"), pH, biochemical oxygen demand ("BOD"), and fecal coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. *Id.*; 40 C.F.R. § 401.15.

Further, Discharge Prohibition A(1) of the General Permit provides: "Except as allowed in Special Conditions (D.1.) of this General Permit, materials other than storm water (non-storm water discharges) that discharge either directly or indirectly to waters of the United States are prohibited. Prohibited non-storm water discharges must be either eliminated or permitted by a separate NPDES permit." Special Conditions D(1) of the General Permit sets forth the conditions that must be met for any discharge of non-storm water to constitute an authorized non-storm water discharge.

Receiving Water Limitation C(1) of the General Permit prohibits storm water discharges and authorized non-storm water discharges to surface or groundwater that adversely impact human health or the environment. Receiving Water Limitation C(2) of the General Permit also prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan or the applicable Regional Board's Basin Plan.

Based on its review of available public documents, CSPA is informed and believes: (1) that Coast Auto continues to discharge pollutants in excess of benchmarks and (2) that Coast Auto has failed to implement BMPs adequate to bring its discharge of these and other pollutants in compliance with the General Permit. Coast Auto's ongoing violations are discussed further below.

A. Coast Auto Has Discharged Storm Water Containing Pollutants in Violation of the Permit.

Coast Auto has discharged and continues to discharge storm water with unacceptable levels of Copper (Cu), Lead (Pb), Total Suspended Solids (TSS), and Zinc (Zn) in violation of the General Permit. These high pollutant levels have been documented during significant rain events, including the rain events indicated in the table of rain data attached hereto as Attachment A. Coast Auto's Annual Reports and Sampling and Analysis Results confirm discharges of materials other than storm water and specific pollutants in violation of the Permit provisions listed above. Self-monitoring reports under the Permit are deemed "conclusive evidence of an exceedance of a permit limitation." *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

The following discharges of pollutants from the Facility have violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Industrial Storm Water Permit:

1. Discharge of Storm Water Containing Copper (Cu) at Concentration in Excess of EPA Benchmark Value.

Date	Parameter	Concentration in Discharge	Benchmark Value
10/13/2009	Cu	0.39 mg/L	0.0636 mg/L

2. Discharge of Storm Water Containing Lead (Pb) at Concentration in Excess of EPA Benchmark Value.

Date	Parameter	Concentration in Discharge	Benchmark Value
10/13/2009	Pb	0.60 mg/L	0.0816 mg/L

3. Discharge of Storm Water Containing Total Suspended Solids (TSS) at Concentration in Excess of EPA Benchmark Value.

Date	Parameter	Concentration in Discharge	Benchmark Value
10/13/2009	TSS	350 mg/L	100 mg/L

4. Discharge of Storm Water Containing Zinc (Zn) at Concentration in Excess of EPA Benchmark Value.

Date	Parameter	Concentration in Discharge	Benchmark Value
3/31/2012	Zn	0.99 mg/L	0.117 mg/L
10/13/2009	Zn	0.84 mg/L	0.117 mg/L

CSPA's investigation, including its review of Coast Auto's analytical results documenting pollutant levels in the Facility's storm water discharges well in excess of EPA's benchmark values and the State Board's proposed benchmark levels for specific conductivity, indicates that Coast Auto has not implemented BAT and BCT at the Facility for its discharges of Copper (Cu), Lead (Pb), Total Suspended Solids (TSS), Zinc (Zn) and other pollutants, in violation of Effluent Limitation B(3) of the General Permit. Coast Auto was required to have implemented BAT and BCT by no later than October 1, 1992 or the start of its operations. Thus, Coast Auto is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

CSPA is informed and believes that Coast Auto has known that its storm water contains pollutants at levels exceeding EPA Benchmarks and other water quality criteria since at least July 20, 2007. CSPA alleges that such violations also have occurred and will occur on other rain dates, including during every single significant rain event that has occurred since July 20, 2007, and that will occur at the Facility subsequent to the date of this Notice of Violation and Intent to File Suit. Attachment A, attached hereto, sets forth each of the specific rain dates on which CSPA alleges that Coast Auto has discharged storm water containing impermissible levels of Copper (Cu), Lead (Pb), Total Suspended Solids (TSS), Zinc (Zn) and other unmonitored pollutants (e.g. aluminum (Al) and iron (Fe)) in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Permit.

These unlawful discharges from the Facility are ongoing. Each discharge of storm water containing any pollutants from the Facility without the implementation of BAT/BCT constitutes a separate violation of the General Permit and the Act. Consistent

with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Coast Auto is subject to penalties for violations of the General Permit and the Act since July 20, 2007.

B. Coast Auto Has Failed to Implement an Adequate Monitoring & Reporting Plan.

Section B of the General Industrial Storm Water Permit requires that dischargers develop and implement an adequate Monitoring and Reporting Plan by no later than October 1, 1992 or the start of operations. Sections B(3), B(4) and B(7) require that dischargers conduct regularly scheduled visual observations of non-storm water and storm water discharges from the Facility and to record and report such observations to the Regional Board. Section B(5)(a) of the General Permit requires that dischargers "shall collect storm water samples during the first hour of discharge from (1) the first storm event of the wet season, and (2) at least one other storm event in the wet season. All storm water discharge locations shall be sampled." Section B(5)(c)(i) further requires that the samples shall be analyzed for total suspended solids, pH, specific conductance, and total organic carbon. Oil and grease may be substituted for total organic carbon. Section B(5)(c)(ii) of the General Permit further requires dischargers to analyze samples for all "[t]oxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities." Section B(10) of the General Permit provides that "facility operators shall explain how the facility's monitoring program will satisfy the monitoring program objectives of [General Permit] Section B.2."

Based on its investigation, CSPA is informed and believes that Coast Auto has failed to develop and implement an adequate Monitoring & Reporting Plan. First, based on its review of publicly available documents, CSPA is informed and believes that Coast Auto has failed to collect storm water samples during at least two qualifying storms events, as defined by the General Permit, during the past five Wet Seasons. Second, based on its review of publicly available documents, CSPA is informed and believes that Coast Auto has failed to conduct the monthly visual monitoring of storm water discharges and the quarterly visual observations of unauthorized non-storm water discharges required under the General Permit during the past five Wet Seasons. Third, based on its review of publicly available documents, CSPA is informed and believes that for the past five Wet Seasons Coast Auto has failed to analyze samples for the pollutants that the General Permit requires Coast Auto to analyze, based on its SIC Codes 5093 and 5015, both of which include aluminum (Al) and iron (Fe). Fourth, based on its review of publicly available documents, CSPA is informed and believes that for the past five Wet Seasons Coast Auto has failed to analyze samples for other pollutants that are likely to be present in significant quantities in the storm water discharged from the Facility. Each of these failures constitutes a separate and ongoing violation of the General Permit and the Act. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Coast Auto is subject to penalties for violations of the General Industrial Storm Water Permit and the Act since July 20, 2007. These violations are set forth in greater detail below:

1. Coast Auto Has Failed to Collect Storm Water Samples During at Least Two Rain Events In the Last Five Wet Seasons.

Section B of the General Industrial Storm Water Permit allows facility operators to participate in group monitoring, which must create and comply with a Group Monitoring Plan (GMP). Section B(15). Section B(15)(b) requires that "(e)ach GMP participant shall collect and analyze samples from at least two storm events in accordance with Section B.5 over the five-year period of this General Permit." Although Section B(5) provides that "(f)acility operators shall collect storm water samples during the first hour of discharge," Section B(8)(b) also provides that "(a) facility operator may conduct visual observations and sample collection more than one hour after discharge begins if the facility operator determines that the objectives of this Section will be better satisfied."

Based on its review of publicly available documents, CSPA is informed and believes that Coast Auto has failed to collect storm water samples from all discharge points during at least two qualifying rain events at the Facility during the past five years, as required by the General Permit. For example, CSPA notes that each of the Annual Reports filed by Coast Auto for the Facility for the 2007-2008, 2008-2009, and 2010-2011 Wet Seasons reported that Coast Auto failed to analyze a single sample of storm water discharged during a single qualifying storm event that season. CSPA notes that the Annual Report filed by Coast Auto for the Facility for the 2009-2010 Wet Season reported that Coast Auto analyzed one sample of storm water discharged during a qualifying storm event that season. However, upon closer scrutiny it turns out that the storm sampled was not a qualifying storm event within the meaning of the General Permit (discussed further below).

Further, Coast Auto reported for both of the two Wet Seasons that it sampled a storm water discharge in the last five years (i.e., the 2009-2010 and the 2011-2012 Wet Seasons), that the Facility sampled the first storm of the season, when in fact it did not. Specifically, Coast Auto reported in its 2011-2012 Annual Report that it sampled the first storm of the Wet Season, but Coast Auto's only sample is from March 31, 2012, nearly seven months into the eight-month season. Based upon its review of publicly available rainfall data, CSPA is informed and believes that the first storm of the 2011-2012 Wet Season occurred as early as Monday, October 3, 2011, when 0.48" of rain fell on the Facility. This failure to adequately monitor storm water discharges constitutes separate and ongoing violations of the General Permit and the Act.

2. Coast Auto Has Failed to Collect Storm Water Samples from Each Discharge Point During at Least Two Rain Events In the Last Five Wet Seasons.

Based on its review of publicly available documents, CSPA is informed and believes that Coast Auto has failed to collect storm water samples from all discharge points during at least two qualifying rain events at the Facility during the past five Wet

Seasons. Further, based on its investigation, CSPA is informed and believes that storm water discharges from the Facility at points other than the one sampling/discharge point currently designated and sampled by Coast Auto. This failure to adequately monitor storm water discharges constitutes separate and ongoing violations of the General Permit and the Act.

3. Coast Auto Has Failed to Conduct the Monthly Wet Season Observations of Storm Water Discharges Required by the General Permit.

The General Permit requires dischargers to "visually observe storm water discharges from one storm event per month during the Wet Season (October 1 – May 30)." General Permit, Section B(4)(a). As evidenced by the entries on Form 4 Monthly Visual Observations contained in Coast Auto's annual reports for the last five Wet Seasons, CSPA is informed and believes that Coast Auto has failed to properly conduct this requirement of the General Permit.

Specifically, Coast Auto failed to conduct monthly visual observations of discharges from qualifying storm events for most months during any of the past five Wet Seasons. Instead, Coast Auto documented its visual observations of storm water that discharged during non-qualifying storm events, on dates during which no rain fell on the Facility, or did not observe a discharge at all, for most months during the entire Wet Season of each of the past five years (discussed further below). However, based on publicly available rainfall data, CSPA is informed and believes that there were many qualifying storm events during each of these Wet Seasons that Coast Auto could have observed.

For example, Coast Auto reported in its 2011-2012 Annual Report that there was no storm water discharge during a qualifying storm event in January 2012. However, CSPA is informed and believes that this could not possibly be true because 1.76" of rain fell on the Facility on Friday, January 20, 2012. The January 20th storm event was a qualifying storm event. Since Coast Auto sampled a storm event on March 31, 2012 during which 0.48" of rain fell on the Facility, it is likely that a rain event with over triple the rainfall would also produce storm water discharge. Coast Auto's failure to conduct this required monthly Wet Season visual monitoring extends back to at least July 20, 2007. Coast Auto's failure to conduct this required monthly Wet Season visual monitoring has caused and continues to cause multiple, separate and ongoing violations of the General Permit and the Act.

4. Coast Auto Is Subject to Penalties for Its Failure to Implement an Adequate Monitoring & Reporting Plan Since July 20, 2007.

CSPA is informed and believes that publicly available documents demonstrate Coast Auto's consistent and ongoing failure to implement an adequate Monitoring

Reporting Plan in violation of Section B of the General Permit. For example, while in its 2009-2010 Annual Report Coast Auto reported having collected a sample of storm water discharged during a qualifying storm event, the storm event was not a qualifying storm event within the meaning of the General Permit. Based on its review of publicly available rainfall data, CSPA is informed and believes that the storm that occurred at the Facility on Tuesday, October 13, 2009 was not a qualifying storm event because enough rain fell on the Facility one day prior to likely result in a discharge of storm water from the Facility, thereby invalidating the storm as a qualifying storm event. Specifically, Coast Auto sampled a rain event on October 13, 2009 that produced 5.98" of rainfall on the Facility. However, one day prior, on Monday, October 12, 2009, 0.18" of rain fell on the Facility. Therefore, this event likely invalidates any sampling for three days afterwards.

Additionally, Coast Auto is in violation of the General Permit's requirement that the testing method employed in laboratory analyses of pollutant concentrations present in storm water discharged from the Facility be "adequate to satisfy the objectives of the monitoring program." General Permit Section B.10.a.iii. The Regional Board has determined that the appropriate laboratory test method to employ when analyzing storm water samples for the presence and concentration of zinc, lead, and copper is EPA method 200.8. Additionally, the Regional Board has determined that the appropriate detection limit that should be applied when using EPA method 200.8 is 0.005 mg/L.

However, as demonstrated by Coast Auto's annual report filed for the 2011-2012 Wet Season, the test method employed by the laboratory utilized by Coast Auto to analyze the concentration of zinc, lead, and copper in the storm water discharged from its Facility was not EPA method 200.8, but rather, EPA method 200.7. In addition, the laboratory employed by Coast Auto to analyze the storm water sample collected for both samples applied an inappropriately high detection limit of 0.02 mg/L for zinc and copper, and 0.05 mg/L for lead.

Coast Auto is in violation of the General Permit for failing to employ laboratory test methods and detection limits that are adequate to, among other things, "ensure that storm water discharges are in compliance with the Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations specified in this General Permit." General Permit Section B.2.a. ("Monitoring Program Objectives"). Accordingly, consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Coast Auto is subject to penalties for these violations of the General Permit and the Act since July 20, 2012.

C. Coast Auto Has Failed to Implement BAT and BCT.

Effluent Limitation B(3) of the General Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures. General Permit, Section A(8).

CSPA's investigation indicates that Coast Auto has not implemented BAT and BCT at the Facility for its discharges of Copper (Cu), Lead (Pb), Total Suspended Solids (TSS), and Zinc (Zn) and other unmonitored pollutants in violation of Effluent Limitation B(3) of the General Permit.

To meet the BAT/BCT requirement of the General Permit, Coast Auto must evaluate all pollutant sources at the Facility and implement the best structural and non-structural management practices economically achievable to reduce or prevent the discharge of pollutants from the Facility. Based on the limited information available regarding the internal structure of the Facility, CSPA believes that at a minimum Coast Auto must improve its housekeeping practices, store materials that act as pollutant sources under cover or in contained areas, treat storm water to reduce pollutants before discharge (e.g., with filters or treatment boxes), and/or prevent storm water discharge altogether. Coast Auto has failed to adequately implement such measures.

Coast Auto was required to have implemented BAT and BCT by no later than October 1, 1992. Therefore, Coast Auto has been in continuous violation of the BAT and BCT requirements every day since October 1, 1992, and will continue to be in violation every day that it fails to implement BAT and BCT. Coast Auto is subject to penalties for violations of the General Permit and the Act occurring since July 20, 2007.

D. Coast Auto Has Failed to Develop and Implement an Adequate Storm Water Pollution Prevention Plan.

Section A(1) and Provision E(2) of the General Permit require dischargers of storm water associated with industrial activity to develop, implement, and update an adequate storm water pollution prevention plan ("SWPPP") no later than October 1, 1992. Section A(1) and Provision E(2) requires dischargers who submitted an NOI pursuant to Water Quality Order No. 97-03-DWQ to continue following their existing SWPPP and implement any necessary revisions to their SWPPP in a timely manner, but in any case, no later than August 9, 1997.

The SWPPP must, among other requirements, identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm and non-storm water discharges from the facility and identify and implement site-specific best management practices ("BMPs") to reduce or prevent pollutants associated with industrial activities in storm water and authorized non-storm water discharges (General Permit, Section A(2)). The SWPPP must also include BMPs that achieve BAT and BCT (Effluent Limitation B(3)). The SWPPP must include: a description of individuals and their responsibilities for developing and implementing the SWPPP (General Permit, Section A(3)); a site map showing the facility boundaries, storm water drainage areas with flow pattern and nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, impervious areas, areas of actual and potential pollutant contact, and areas of industrial activity (General Permit, Section A(4)); a list of significant materials handled and stored at the site (General

Permit, Section A(5)); a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities, a description of significant spills and leaks, a list of all non-storm water discharges and their sources, and a description of locations where soil erosion may occur (General Permit, Section A(6)).

The SWPPP also must include an assessment of potential pollutant sources at the Facility and a description of the BMPs to be implemented at the Facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective (General Permit, Section A(7), (8)). The SWPPP must be evaluated to ensure effectiveness and must be revised where necessary (General Permit, Section A(9),(10)). Receiving Water Limitation C(3) of the Order requires that dischargers submit a report to the appropriate Regional Water Board that describes the BMPs that are currently being implemented and additional BMPs that will be implemented to prevent or reduce the discharge of any pollutants causing or contributing to the exceedance of water quality standards.

CSPA's investigation and review of publicly available documents regarding conditions at the Facility indicate that Coast Auto has been operating with an inadequately developed or implemented SWPPP in violation of the requirements set forth above. Coast Auto has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary. Accordingly, Coast Auto has been in continuous violation of Section A(1) and Provision E(2) of the General Permit every day since October 1, 1992, and will continue to be in violation every day that it fails to develop and implement an effective SWPPP. Coast Auto is subject to penalties for violations of the Order and the Act occurring since July 20, 2007.

E. Coast Auto Has Failed to Address Discharges Contributing to Exceedances of Water Quality Standards.

Receiving Water Limitation C(3) requires a discharger to prepare and submit a report to the Regional Board describing changes it will make to its current BMPs in order to prevent or reduce the discharge of any pollutant in its storm water discharges that is causing or contributing to an exceedance of water quality standards. Once approved by the Regional Board, the additional BMPs must be incorporated into the Facility's SWPPP. The report must be submitted to the Regional Board no later than 60-days from the date the discharger first learns that its discharge is causing or contributing to an exceedance of an applicable water quality standard. Receiving Water Limitation C(4)(a). Section C(11)(d) of the Permit's Standard Provisions also requires dischargers to report any noncompliance. *See also* Provision E(6). Lastly, Section A(9) of the Permit requires an annual evaluation of storm water controls including the preparation of an evaluation report and implementation of any additional measures in the SWPPP to respond to the monitoring results and other inspection activities.

As indicated above, Coast Auto is discharging elevated levels of Copper (Cu), Lead (Pb), Total Suspended Solids (TSS), Zinc (Zn) and other unmonitored pollutants that are causing or contributing to exceedances of applicable water quality standards. For each of these pollutant exceedances, Coast Auto was required to submit a report pursuant to Receiving Water Limitation C(4)(a) within 60-days of becoming aware of levels in its storm water exceeding the EPA Benchmarks and applicable water quality standards.

Based on CSPA's review of available documents, Coast Auto was aware of high levels of these pollutants prior to July 20, 2007. Likewise, Coast Auto has generally failed to file reports describing its noncompliance with the General Permit in violation of Section C(11)(d). Lastly, the SWPPP and accompanying BMPs do not appear to have been altered as a result of the annual evaluation required by Section A(9). Coast Auto has been in continuous violation of Receiving Water Limitation C(4)(a) and Sections C(11)(d) and A(9) of the General Permit every day since July 20, 2007, and will continue to be in violation every day it fails to prepare and submit the requisite reports, receives approval from the Regional Board and amends its SWPPP to include approved BMPs. Coast Auto is subject to penalties for violations of the General Permit and the Act occurring since July 20, 2007.

F. Coast Auto Has Failed to File Timely, True and Correct Reports.

Section B(14) of the General Permit requires dischargers to submit an Annual Report by July 1st of each year to the executive officer of the relevant Regional Board. The Annual Report must be signed and certified by an appropriate corporate officer. General Permit, Sections B(14), C(9), (10). Section A(9)(d) of the General Permit requires the discharger to include in their annual report an evaluation of their storm water controls, including certifying compliance with the General Industrial Storm Water Permit. *See also* General Permit, Sections C(9) and (10) and B(14).

CSPA's investigation indicates that Coast Auto has submitted incomplete Annual Reports and purported to comply with the General Permit despite significant noncompliance at the Facility. For example, Coast Auto reported in the 2009-2010 and 2011-2012 Annual Reports that it observed the first storm of the Wet Season. However, as discussed above, based on CSPA's review of publicly available rainfall data, CSPA believes this cannot possibly be true.

Further, Coast Auto failed to sample from two qualifying storm events in the last five Wet Seasons. For example, as listed above, in 2007-2008, 2008-2009, 2010-2011, Coast Auto failed to take a single sample of storm water discharge. And in 2009-2010, the one of two Wet Seasons in the past five Wet Seasons in which Coast Auto took a sample of storm water discharge, Coast Auto sampled from a storm event on October 13, 2009 that was not a qualifying storm event.

Finally, Coast Auto failed to comply with the monthly visual observations of storm water discharges requirement for every single Annual Report filed for the Facility

for each of the last five years. In the 2011-2012 Annual Report, Coast Auto only observed a single qualifying storm event within the meaning of the General Permit. For the rest of the eight-month Wet Season, Coast Auto reported that it was not able to observe a single discharge at the Facility. However, based on publicly available rainfall data, CSPA is informed and believes that this cannot possibly be true. For example, on Friday, April 13, 2012, 1.17" of rain fell on the Facility, likely creating a discharge of storm water at the Facility.

These are only a few examples of how Coast Auto has failed to file completely true and accurate reports. As indicated above, Coast Auto has failed to comply with the Permit and the Act consistently for at least the past five years; therefore, Coast Auto has violated Sections A(9)(d), B(14) and C(9) & (10) of the Permit every time Coast Auto submitted an incomplete or incorrect annual report that falsely certified compliance with the Act in the past years. Coast Auto's failure to submit true and complete reports constitutes continuous and ongoing violations of the Permit and the Act. Coast Auto is subject to penalties for violations of Section (C) of the General Permit and the Act occurring since July 20, 2007.

IV. Persons Responsible for the Violations.

CSPA puts Coast Auto Supplies and Dismantling, Inc., Mary Gates, Michael Cole and Chris Favre under on notice that they are the persons responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, CSPA puts Coast Auto Supplies and Dismantling, Inc., Mary Gates, Michael Cole and Chris Favre on notice that it intends to include those persons in this action.

V. Name and Address of Noticing Party.

Our name, address and telephone number is as follows: California Sportfishing Protection Alliance, Bill Jennings, Executive Director; 3536 Rainier Avenue, Stockton, CA 95204; Phone: (209) 464-5067.

VI. Counsel.

CSPA has retained legal counsel to represent it in this matter. Please direct all communications to:

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VII. Penalties.

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4) each separate violation of the Act Coast Auto Supplies and Dismantling, Inc., Mary Gates, Michael Cole and Chris Favre to a penalty of up to \$32,500 per day per violation for all violations occurring after March 15, 2004, and \$37,500 per day per violation for all violations occurring after January 12, 2009, during the period commencing five years prior to the date of this Notice of Violations and Intent to File Suit. In addition to civil penalties, CSPA will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. § 1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)), permits prevailing parties to recover costs and fees, including attorneys' fees.

CSPA believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. We intend to file a citizen suit under Section 505(a) of the Act against Coast Auto Supplies and Dismantling, Inc., Mary Gates, Michael Cole and Chris Favre and their agents for the above-referenced violations upon the expiration of the 60-day notice period. If you wish to pursue remedies in the absence of litigation, we suggest that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,



Bill Jennings, Executive Director
California Sportfishing Protection Alliance

SERVICE LIST

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U.S. Environmental Protection Agency
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Jared Blumenfeld
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Roger Briggs, Executive Officer
Regional Water Quality Control Board
Central Coast Region
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ATTACHMENT A
Notice of Intent to File Suit, Coast Auto (Watsonville, CA)
Significant Rain Events,* July 20, 2007 – July 20, 2012

Sep. 23 2007	Feb. 16 2009	May 11 2010	Oct 05 2011
Oct. 10 2007	Feb. 17 2009	May 25 2010	Nov 04 2011
Oct. 12 2007	Feb. 18 2009	Oct. 17 2010	Nov 05 2011
Oct. 13 2007	Feb. 22 2009	Oct. 24 2010	Nov 11 2011
Oct. 17 2007	Feb. 23 2009	Oct. 25 2010	Nov 19 2011
Nov. 11 2007	Feb. 24 2009	Oct. 31 2010	Nov 20 2011
Dec. 07 2007	Mar. 02 2009	Nov. 08 2010	Jan 20 2012
Dec. 17 2007	Mar. 03 2009	Nov. 20 2010	Jan 21 2012
Dec. 18 2007	Mar. 04 2009	Nov. 21 2010	Jan 22 2012
Dec. 20 2007	Mar. 22 2009	Nov. 22 2010	Jan 23 2012
Jan. 04 2007	April 08 2009	Nov. 23 2010	Feb 13 2012
Jan. 05 2008	April 10 2009	Nov. 24 2010	Feb 29 2012
Jan. 06 2008	May 02 2009	Nov. 28 2010	Mar 13 2012
Jan. 07 2008	May 04 2009	Dec. 06 2010	Mar 14 2012
Jan. 09 2008	May 05 2009	Dec. 15 2010	Mar 16 2012
Jan. 22 2008	Jun 01 2009	Dec. 17 2010	Mar 17 2012
Jan. 23 2008	Oct. 13 2009	Dec. 18 2010	Mar 24 2012
Jan. 24 2008	Dec. 07 2009	Dec. 19 2010	Mar 25 2012
Jan. 25 2008	Dec 11 2009	Dec. 20 2010	Mar 27 2012
Jan. 26 2008	Dec 12 2009	Dec. 22 2010	Mar 31 2012
Jan. 27 2008	Dec 13 2009	Dec. 26 2010	Apr 10 2012
Jan. 28 2008	Dec 14 2009	Dec. 29 2010	Apr 11 2012
Jan. 30 2008	Dec 22 2009	Jan. 01 2011	Apr 12 2012
Feb. 01 2008	Dec 27 2009	Jan. 02 2011	Apr 13 2012
Feb. 03 2008	Dec. 30 2009	Jan. 30 2011	Apr 25 2012
Feb. 20 2008	Jan. 12 2010	Feb. 14 2011	Apr 26 2012
Feb. 22 2008	Jan. 13 2010	Feb. 15 2011	Jun 04 2012
Feb. 23 2008	Jan. 18 2010	Feb. 16 2011	
Feb. 24 2008	Jan. 19 2010	Feb. 17 2011	
Mar. 16 2008	Jan. 20 2010	Feb. 18 2011	
Apr. 23 2008	Jan. 21 2010	Feb. 19 2011	
Oct. 04 2008	Jan. 22 2010	Feb. 24 2011	
Nov. 02 2008	Jan. 23 2010	Feb. 25 2011	
Nov. 04 2008	Jan. 27 2010	Mar. 06 2011	
Nov. 27 2008	Jan. 30 2010	Mar. 13 2011	
Dec. 15 2008	Feb 05 2010	Mar. 14 2011	
Dec. 16 2008	Feb 06 2010	Mar. 16 2011	
Dec. 19 2008	Feb. 09 2010	Mar. 18 2011	
Dec. 22 2008	Feb. 22 2010	Mar. 19 2011	
Dec. 25 2008	Feb. 24 2010	Mar. 20 2011	
Dec. 22 2008	Feb. 27 2010	Mar. 21 2011	
Jan. 02 2009	Feb. 28 2010	Mar. 23 2011	
Jan. 22 2009	Mar. 03 2010	Mar. 24 2011	
Jan. 23 2009	Mar. 04 2010	Mar. 25 2011	
Jan. 24 2009	Mar. 10 2010	Mar. 26 2011	
Feb. 05 2009	Mar. 13 2010	Apr 08 2011	
Feb. 06 2009	April 03 2010	May 14 2011	
Feb. 07 2009	April 05 2010	May 15 2011	
Feb. 09 2009	April 12 2010	May 16 2011	
Feb. 11 2009	April 13 2010	May 17 2011	
Feb. 12 2009	April 20 2010	Jun 06 2011	
Feb. 13 2009	April 21 2010	Jun 28 2011	
Feb. 14 2009	April 28 2010	Oct 03 2011	
	April 29 2010	Oct 04 2011	

* Dates gathered from publicly available rain and weather data collected at stations located near the Facility.